

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

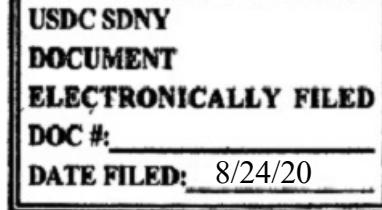
ALLSTATE INSURANCE COMPANY, et  
al.

Petitioners,

-against-

THE RYBAK FIRM, PLLC,

Respondent.



20-MC-262 (GBD) (BCM)

**ORDER**

**BARBARA MOSES, United States Magistrate Judge.**

WHEREAS currently before the Court is petitioners' motion to compel The Rybak Firm, PLLC to comply with a Rule 45 subpoena issued in connection with a pending matter in the Eastern District of New York before the Honorable Ramon E. Reyes, Jr., or, in the alternative, to transfer this action to the Eastern District of New York (Dkt. No. 2);

WHEREAS Fed. R. Civ. P. 45(f) allows for a transfer of a subpoena-related motion to the issuing court;

WHEREAS the Court must consider the subpoenaed party's interest in local resolution of subpoena-related motions, *see* Fed. R. Civ. P. 45 advisory committee notes;

WHEREAS petitioners served respondent with the Rule 45 subpoena on January 14, 2020 (Dkt. No. 3-2);

WHEREAS petitioners served respondent with the motion papers in this case on July 30, 2020 (Dkt. No. 11);

WHEREAS respondent has not yet responded to either the subpoena or the motion;

WHEREAS respondent has informed the Court that it "expected" the Court to transfer the action to the Eastern District of New York (Dkt. No. 14);

WHEREAS the underlying action has been pending before Judge Reyes in the Eastern District of New York since October 2018 (Dkt. No. 2);

WHEREAS respondent is located in the Eastern District of New York (Dkt. No. 2);

WHEREAS a similar motion to compel concerning a discovery dispute in the same underlying action was recently transferred from the Southern District of New York to the Eastern District of New York, *see Allstate Ins. Co. v. 2753 Coney Island Avenue Corp.*, 20-MC-231-VEC; and

WHEREAS, a motion to transfer pursuant to Rule 45(f), like a motion to transfer venue pursuant to 28 U.S.C. § 1404(a), is "a non-dispositive motion because it can result only in the transfer of the case to another federal district, not in a decision on the merits or even a determination of federal jurisdiction." *Salzman v. Travelers Home & Marine Ins. Co.*, 2016 WL 3951206, at \*1 (S.D.N.Y. July 20, 2016) (quoting *Adams v. Key Tronic Corp.*, 1997 WL 1864, at \*1 (S.D.N.Y. Jan. 2, 1997)); *accord Ribail v. Bank of Am., N.A.*, 2016 WL 6496258, at \*2 (S.D.N.Y. Nov. 1, 2016); *Anghel v. New York State Dep't of Educ.*, 2015 WL 7302250, at \*1 n.2 (E.D.N.Y. Nov. 18, 2015);

IT IS HEREBY ORDERED THAT petitioners' unopposed motion to transfer this action to the Eastern District of New York is GRANTED.

The Clerk of Court is respectfully directed to effect the transfer immediately, without waiting the seven-day period pursuant to Local Civil Rule 83.1.

Dated: New York, New York  
August 24, 2020

**SO ORDERED.**



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**BARBARA MOSES**  
**United States Magistrate Judge**